

MT LEGISLATIVE HISTORY

Chapter 9 19 75

Bill H \_\_\_\_\_ S (59)

Original bill & hist. \_\_\_\_C

H. Committee on Lab & Emp. Rel.

S. Committee on Lab & Emp. Rel.

Hearing Date(s) \_\_\_\_\_ C

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Did this bill originate in an interim committee? \_\_\_\_Yes \_\_\_\_No

Committee \_\_\_\_\_

Report \_\_\_\_\_

1 *Senate* BILL NO. *57*  
2 INTRODUCED BY *Franklin H. Hays*  
3 *Thurston*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION  
5 92-715, R.C.M. 1947, TO PROVIDE FOR DIRECT NOTICE OF AWARD  
6 TO CLAIMANTS IN WORKMEN'S COMPENSATION CASES."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
9 Section 1. Section 92-715, R.C.M. 1947, is amended to  
10 read as follows:  
11 "92-715. Biweekly payments converted into a lump sum.  
12 The biweekly payments provided for in this act may be  
13 converted, in whole or in part, into a lump-sum payment,  
14 which lump-sum payment shall not exceed the estimated value  
15 of the present worth of the deferred payments capitalized at  
16 the rate of two per centum (2%) per annum. Such conversion  
17 can only be made upon the written application of the injured  
18 workman, his beneficiary, or major or minor dependents, as  
19 the case may be, and shall rest in the discretion of the  
20 board division, both as to the amount of such lump-sum  
21 payment and the advisability of such conversion. The board  
22 division is hereby vested with full power, authority, and  
23 jurisdiction to compromise claims and to approve compromises  
24 of claims under this act; and all settlements and  
25 compromises of compensation provided in this act ~~shall be~~

1 ~~absolutely--null--and~~ are void without the approval of the  
2 board division. Any approval of the board division must be  
3 in writing and set forth specifically the reasons for such  
4 lump-sum or compromise payment. The division shall directly  
5 notify every claimant of any division order approving a  
6 claimant's settlement or compromise of a claim."

3/8/50

## COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

| SENATE<br>BILL NO. | ENTERED<br>COMM. | DATE<br>CONSIDERED            | OUT OF<br>COMM. | DO PASS<br>DATE       | DO NOT<br>PASS<br>DATE | DO PASS<br>AS AMEND.<br>DATE | BE CON-<br>CURRED IN<br>DATE | BE CONC. IN<br>AS AMENDED<br>DATE | BE NOT CON-<br>CURRED IN<br>DATE |
|--------------------|------------------|-------------------------------|-----------------|-----------------------|------------------------|------------------------------|------------------------------|-----------------------------------|----------------------------------|
| SB 3               | 1/7/75           |                               | 1/8/75          | Referred to Judiciary |                        |                              |                              |                                   |                                  |
| SB 50              | 1/10/75          | 1/20, 1/31<br>2/7, 2/10, 2/24 |                 | Held in Committee     |                        |                              |                              |                                   |                                  |
| SB 56              | 1/11/75          | 1/17/75                       | 1/17/75         | 1/17/75               |                        |                              |                              |                                   |                                  |
| SB 57              | 1/11/75          | 1/17/75                       | 1/17/75         |                       |                        | 1/17/75                      |                              |                                   |                                  |
| SB 59              | 1/11/75          | 1/17/75                       | 1/17/75         |                       |                        | 1/17/75                      |                              |                                   |                                  |
| SB 82              | 1/16/75          | 1/20/75                       | 1/20/75         |                       |                        | 1/20/75                      |                              |                                   |                                  |
| SB 88              | 1/16/75          | 1/22/75                       | 1/22/75         | 1/22/75               |                        |                              |                              |                                   |                                  |
| SB 99              | 1/17/75          | 1/22/75                       | 1/22/75         | 1/22/75               |                        |                              |                              |                                   |                                  |
| SB 107             | 1/17/75          | 1/22/75                       | 1/22/75         | 1/22/75               |                        |                              |                              |                                   |                                  |
| SB 114             | 1/17/75          | 1/22/75                       | 1/22/75         | 1/22/75               |                        |                              |                              |                                   |                                  |
| SB 119             | 1/18/75          | 1/22/75                       | 1/22/75         | 1/22/75               |                        |                              |                              |                                   |                                  |
| SB 129             | 1/20/75          | 1/29/75                       | 1/29/75         |                       |                        | 1/29/75                      |                              |                                   |                                  |
| SB 187             | 1/23/75          | 1/29/75                       | 1/29/75         |                       | 1/29/75                |                              |                              |                                   |                                  |
| SB 259             | 2/17/75          | 2/19/75                       | 2/19/75         | Held in Committee     |                        |                              |                              |                                   |                                  |
| SB 265             | 2/18/75          | 2/24/75                       | 2/24/75         |                       |                        | 2/24/75                      |                              |                                   |                                  |
| SB 385             | 2/6/75           | 2/12/75                       | 2/14/75         |                       |                        | 2/14/75                      |                              |                                   |                                  |
| SB 392             | 2/7/75           | 2/14/75                       | 2/14/75         |                       |                        | 2/14/75                      |                              |                                   |                                  |

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING  
LABOR AND EMPLOYMENT RELATIONS COMMITTEE  
MONTANA STATE SENATE

January 17, 1975

The second meeting of the Labor and Employment Relations committee was called to order by Chairman Lee on the above date in room 402 of the State Capitol Building at 9:30 a.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 56: Senator Himsel author of SB 56 appeared before the committee in support of his bill. (A copy of his testimony is attached.)

Jim Murray, of the AFL-CIO, appeared in support of SB 56. He opened his testimony by thanking the Special Interim Committee for the work they had done. He supports the idea that the attorney fees should be paid by the carrier. All workmens compensation settlements should be free and clear. Another point he brought out was that insurance companies sometimes make offers lower than original claims and that this legislation would discourage that, for a carrier is encouraged to make a fair offer in the beginning.

William Romine, attorney, appeared in support of SB 56 but feels there is a misconception in the bill. In workmens compensation, where there is a controversy the insurer does not come in and tender a certain amount of dollars. For example, if a carrier offers \$3,000 and the claimant feels he is entitled to \$6,000, the carrier is held to \$3,000. Mr. Romine feels this bill could be modified so if offer is made by the carrier, it is a firm offer and the hearing examiner can not award less than that.

George Wood, Executive Secretary of the Montana Self-Insurers Association, appeared in opposition to SB 56. (A copy of his testimony is attached)

In closing Senator Himsel said the figures he listed come from the Legislative Audit Report of 1974. He pointed out that out of 173 workmens compensation cases 20 were plan 1, which is self insured, 110 were plan 2 which is private carriers, and 43 were plan 3 which are state insurance plans.

Committee then held discussion on the bill.

CONSIDERATION OF SENATE BILL NO. 59: Senator Graham author of SB 59 appeared before the committee in support of his bill. Senator Graham was the chairman of the interim study which looked at these bills. This study was held to discover why abuses to the bills come about and to set up a set of bills which will correct these deficiencies. Senator Graham thought it was necessary to change the law so that when something occurred or an award was made the claimant would be notified. This was important so that the claimant knew what was going on. The problem sometimes arises when the claimant gives "power of attorney" to his lawyer and then the attorney does not inform his client of what took place. This bill is a necessary step to keep claimants informed of their settlements.

Jim Murray, of the AFL-CIO, said they endorsed SB 59 and asked for passage.

George Wood, Executive Secretary of the Montana Self-Insurers Association, stated he was in support of the bill.

Norman Grossfield, Director of Workmens Compensation, appeared in support of SB 59. He said it is a necessary change for a claimant is entitled to know exactly what is going on. Mr. Grossfield said that in time to come a claimant may not have the same attorney. Therefore, the claimant should have a record of the settlement or compromise so if in the future he wishes to reopen the case he would know what had taken place before.

The committee then held discussion on the bill. During this discussion Chairman Lee asked if this notification also took in the denial of a settlement. Graham said that all information would go to the claimant even if it had been refused. Mr. Grossfield also replied on the question by saying that the bill says approving and technically does not cover denial.

CONSIDERATION OF SENATE BILL NO. 57: Senator Himsel author of SB 57 testified in opposition of the bill. (A copy of his testimony is attached.)

Jim Murray, of the AFL-CIO, supports the concept and feels there is a need to implement in the division rules, a review commission to make recommendations to the commission on attorney fees. It would provide the claimant with a place to take their grievances. Mr. Murray thought that Section 1, subsection (1), line 13, the word "affidavit" was not suitable and that the words "contract of employment" would be more suitable.

George Wood, of the Montana Self-Insurers Association, rose in support of SB 57 and agreed with Jim Murray that trouble could arise from the word "affidavit", and with this change would be in agreement with the bill.

Mr. Grossfield, of Workmens Compensation, in support of the bill stated that all states have a similar bill.

Mr. Romine, attorney, appeared in opposition to the bill. (A copy of his testimony is attached.)

Discussion was then held by the committee on the bill.

DISPOSITION OF SENATE BILL NO. 56:

Senator Blaylock moved SB 56 DO PASS. The motion carried unanimously, with Senator Etchart excused.

DISPOSITION OF SENATE BILL NO. 59:

Senator Hazelbaker moved that SB 59 DO PASS. Senator Norman made a substitute motion to amend page 2, section 1, line 5, after the word "approving" insert the words "or denying". Motion carried unanimously with Senator Etchart excused. Senator Blaylock moved that SB 59 DO PASS AS AMENDED. Motion carried unanimously with Senator Etchart excused.

# STANDING COMMITTEE REPORT

January 17, 1975

MR. **PRESIDENT**

We, your committee on **Labor and Employment Relations**

having had under consideration **Senate** Bill No. **59**

Respectfully report as follows: That **Senate** Bill No. **59**  
introduced bill, be amended as follows:

1. Amend page 2, section 1, line 5  
Following: "approving"  
Insert "or denying"

~~SENATE~~

DO PASS AS AMENDED

LABOR & EMPLOYMENT RELATIONS COMMITTEE

44th Legislature

| Bill No. | Subject Matter                                                                                                                       | Date In | Sponsor           | Hearing Date | Committee Action | Date Out |
|----------|--------------------------------------------------------------------------------------------------------------------------------------|---------|-------------------|--------------|------------------|----------|
| SB 56 ✓  | Provide payment of Workmen's Comp. claimant's attorney & witness fees.                                                               | 1/23    | Hims1 Flynn       | 3/7          | BE CONCURRED IN  | 3/7      |
| SB 57 ✓  | Provide disclosure the WCD of attorney fee arrangements and regulating attorney fees in these cases.                                 | 1/25    | Hims1 Flynn       | 3/7          | BE CONCURRED IN  | 3/7      |
| SB 59 ✓  | Provide for direct notice of award to claimants in WCD cases.                                                                        | 1/25    | Graham Hims1      | 1/31         | BE CONCURRED IN  | 1/31     |
| SB 3 ✓   | Pertaining to apprenticing of minors are repealed.                                                                                   | 1/28    | Regan Greely      | 3/14         | BE CONCURRED IN  | 3/14     |
| SB 82 ✓  | Relate to medical benefits under WCD, add a provision requiring employer or insurer to replace damage or lost eyeglasses & dentures. | 1/28    | Norman Hazelbaker | 3/5          | BE CONCURRED IN  | 3/5      |
| SB 88 ✓  | WCD, remove limitations on medical benefits so it complies fully w/report of national commission of WCD.                             | 1/29    | Hazelbaker        | 3/12         | BE CONCURRED IN  | 3/12     |

MINUTES OF THE MEETING  
LABOR & EMPLOYMENT RELATIONS  
HOUSE OF REPRESENTATIVES  
January 31, 1975

A meeting of the Labor & Employment Relations Committee was held on Friday, January 31, 1975 at 10:30 a.m. in Room 428A with Chairman Kimble presiding. All members were present.

The following bills were heard in this order: SB 59  
HB 172  
HB 163  
HB 232  
HB 253

SB 59--SPONSOR: Matt Himsel, district 59, explained that the added material on page is the core of the bill. Norm Grosfield, acting administrator, WCD, said that although they follow this procedure they support the bill. Mr. Jim Murry, AFL-CIO, supported the concept of informing the claimant if their claim has been denied or not.

HB 172--SPONSOR: Rob Federico, district 61, said this bill would grant leave to employees for cultural, religious or ceremonial reasons, and makes provisions for: the amount of time allowed; provides a reasonable notice period, sets a penalty clause for abuse of leave. Federico said that he did not go to unions because of a lack of response. Mr. Michelle Pichette, MT Democratic Party, supported the bill saying that different cultures should not have to conform with the holidays of the general public. There was no opposition.

HB 163--SPONSOR: Wm. Menahan, district 90, introduced Tony Softich, Labor Standards Division, who requested the bill. He said this act is addressed to the payment of wages and the protection of discharged employees. There only recourse now is legal counsel and civil action. He submitted WS I. Chad Smith, Labor & Industry, and Jim Murry, AFL-CIO, both supported the bill. George Hammond, AFL-CIO, submitted WS II in support of the bill.

Opponent Dean Zinnecker, MT Assn. of Counties, said that this is an era for local gov't, and by doing this, they would be removing local rulings, and would also double the workload for counties because of the extra work in payroll. Dan Mizner, MT League of Cities, said that many cities do not have computers to put out the payroll, and thought that the decision to make payments bi-weekly or monthly should be left to local authorities. John Bell, MT Clerks & Recorders Assn., said this would double the work, yet the employees would receive no additional money. Vic Kosty, Assn. of Counties, said that they have 12,000 people on their payroll and that this would be problems. Lorris Forsell, State Auditor, said that this would be a mechanical problem, as they would not be able to meet the 5-day limit. Kathy Behm, who heads the payroll, said that 63% of all state employees are outside of Helena, which makes it difficult to meet this deadline. Helen Kovich, Clerk & Recorder, agreed.

Mr. Softich explained that they are only concerned with the fact



when the pay period does end, that employees get paid, and not so much with the length of the pay period. He agreed to amend the 5-day limit to 10 days.

HB 232--SPONSOR: Duane Johnson, district 97, said that this was a house-keeping bill for HB 466, introduced last year on collective bargaining. This just reduces the number people on the fact-finders list from 7 to 5. Bob Jensen, Board of Personal Appeals said, at times they reach an impasse in contracts with negotiations, at which time fact-finders are requested. He said it was difficult to find seven reliable people who would be available.

HB 252--SPONSOR: Duane Johnson, district 97, said that this bill would only correct an error on page 1, line 19 changing "13(4)" to "59-1613(4)". He said that these numbers do not correspond with the codes.

There being no further testimony, the committee went into executive discussion.

SB 59--BAETH MOVED THAT SB 59 BE CONCURRED IN, SECONDED BY FEDERICO. MOTION CARRIED UNANIMOUSLY.

HB 253--FEDERICO MOVED TO AMEND PAGE 1, LINE 19, BY STRIKING "13(4)" AND INSERTING "59-1613(4)", SECONDED BY MAGONE. MOTION CARRIED UNANIMOUSLY.

FEDERICO MOVED HB 253 AS AMENDED DO PASS, SECONDED BY MAGONE. MOTION CARRIED UNANIMOUSLY.

HB 232--FEDERICO MOVED HB 232 DO PASS, SECONDED BY KELLY. MOTION CARRIED UNANIMOUSLY.

HB 163--FEDERICO MOVED TO AMEND THE 5-DAY LIMIT TO 10 DAYS, SECONDED BY MACFADDEN. ELLERD MOVED A SUBSTITUTE MOTION TO DEFER ACTION TO THE NEXT MEETING. SECONDED BY BABCOCK. MOTION CARRIED UNANIMOUSLY.

HB 172--Federico submitted amendments for his bill as per attached stmt. Sivertsen questioned line 19, the use of the word "recognized". Kelly thought that an employer might need more notice of the leave, and recommended that it be amended to two weeks. BAETH MOVED TO ACCEPT THE AMENDMENTS SUGGESTED BY FEDERICO, WITH A CORRECTION ON AMENDMENT 3, TO INCREASE NOTICE TO TWO WEEKS, SECONDED BY JOHNSON, MOTION CARRIED UNANIMOUSLY.

ELLERD MOVED TO AMEND THE AMENDMENT NUMBER 1, FOLLOWING "TEN (10) DAYS" BY INSERTING "WITHOUT PAY OR THIS LEAVE SHALL BE CONSIDERED PAID VACATION TIME", SECONDED BY DASSINGER. Federico said he did not suggest this because for many firms, employees are requested to take their vacation leave in one lump. Johnson said that he objected to "OR THIS LEAVE SHALL BE CONSIDERED PAID VACATION TIME". He felt that persons should not be penalized by having to take their vacation leave.

ELLERD MOVED A SUBSTITUTE MOTION TO AMEND LINE 18, FOLLOWING "ABSENCE" BY INSERTING "WITHOUT PAY", SECONDED BY JOHNSON. MOTION CARRIED UNANIMOUSLY.

## SENATE BILL NO. 59

INTRODUCED BY GRAHAM, HIMSL, FLYNN, THIESSEN

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 92-715, R.C.M. 1947, TO PROVIDE FOR DIRECT NOTICE OF AWARD TO CLAIMANTS IN WORKMEN'S COMPENSATION CASES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 92-715, R.C.M. 1947, is amended to read as follows:

"92-715. Biweekly payments converted into a lump sum. The biweekly payments provided for in this act may be converted, in whole or in part, into a lump-sum payment, which lump-sum payment shall not exceed the estimated value of the present worth of the deferred payments capitalized at the rate of two per centum (2%) per annum. Such conversion can only be made upon the written application of the injured workman, his beneficiary, or major or minor dependents, as the case may be, and shall rest in the discretion of the board division, both as to the amount of such lump-sum payment and the advisability of such conversion. The board division is hereby vested with full power, authority, and jurisdiction to compromise claims and to approve compromises of claims under this act; and all settlements and compromises of compensation provided in this act ~~shall--be~~

~~absolutely--null--and~~ are void without the approval of the board division. Any approval of the board division must be in writing and set forth specifically the reasons for such lump-sum or compromise payment. The division shall directly notify every claimant of any division order approving OR DENYING a claimant's settlement or compromise of a claim."

-End-

REFERENCE BILL